

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

ERIC LYNCH,

Plaintiff,

9:20-cv-63 (BKS/ATB)

v.

COUNTY OF HERKIMER, DEPUTY
JAILER SHEPPARD, DEPUTY JAILER
AEILLO, and JONATHAN HADDEN,

Defendants.

Appearances:

Plaintiff pro se:

Eric Lynch
18-B-0755
Elmira Correctional Facility
P.O. Box 500
Elmira, NY 14902

For Defendants:

Corey A Ruggiero
April J. Laws
Gregg T. Johnson
Hannah Hyde Hage
Johnson & Laws, LLC
646 Plank Road, Suite 205
Clifton Park, NY 12065

Hon. Brenda K. Sannes, United States District Judge:

MEMORANDUM-DECISION AND ORDER

On January 16, 2020, Defendants removed this action, which was commenced by Plaintiff Eric Lynch, a New York State inmate, in Herkimer County Supreme Court asserting claims under 42 U.S.C. § 1983 arising out of his incarceration. (Dkt. Nos. 1, 2). On May 14, 2021, Defendants filed a motion for summary judgment under Fed. R. Civ. P. 56 seeking

dismissal of the complaint. (Dkt. No. 55). The motion was fully briefed, with a response from Plaintiff, a reply from Defendants, and a sur-reply from Plaintiff. (Dkt. Nos. 69, 72, 79). This matter was assigned to United States Magistrate Judge Andrew T. Baxter who, on February 16, 2022, issued a Report-Recommendation recommending that Defendants' motion for summary judgment be granted, and that the complaint be dismissed with prejudice. (Dkt. No. 81). Magistrate Judge Baxter advised the parties that under 28 U.S.C. § 636(b)(1), they had fourteen days within which to file written objections to the report, and that the failure to object to the report within fourteen days would preclude appellate review. (*Id.* at 35).

On March 3, 2022, Plaintiff filed a letter motion seeking an extension of the time to file objections, (Dkt. No. 82); the Court granted that request, and reset the deadline to file objections to March 15, 2022, (Dkt. No. 83). No objections to the Report-Recommendation have been filed. As no objections to the Report-Recommendation have been filed, and the time for filing objections has expired, the Court reviews the Report-Recommendation for clear error. *See Petersen v. Astrue*, 2 F. Supp. 3d 223, 228–29 (N.D.N.Y. 2012); Fed. R. Civ. P. 72(b) advisory committee's note to 1983 amendment. Having reviewed the Report-Recommendation for clear error and found none, the Court adopts the Report-Recommendation in its entirety.

For these reasons, it is

ORDERED that the Report-Recommendation (Dkt. No. 81) is **ADOPTED** in its entirety; and it is further

ORDERED that Defendants' motion for summary judgment (Dkt. No. 55) is **GRANTED**; and it is further

ORDERED that the complaint is **DISMISSED in its entirety with prejudice**; and it is further

ORDERED that the Clerk serve a copy of this Order upon the parties in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: March 22, 2022
Syracuse, New York

Brenda K. Sannes
Brenda K. Sannes
U.S. District Judge